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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/556,001

11/08/2005

Amjad Soomro

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BRIARCLIFF MANOR, NY 10510

EXAMINER

AFSHAR, KAMRAN

ART UNIT

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2617

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/556,001	Applicant(s) SOOMRO, AMJAD	
	Examiner KAMRAN AFSHAR	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/08/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-22 of copending Application No. 10/556,010. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the claimed limitations recited in the present application are transparently found in the copending application 10851330 with obvious wording variations. Take an example of comparing claim 1 of pending application and claim 1 of copending application 10/556,010:

Pending Application 10556,001	Co-pending application 10/556,010
1. A method for creating a measurement report (400) among a plurality of stations (201) in a wireless local area network (WLAN), comprising the steps of: receiving	1. A method for specifying measurement start times in a network Measurement Request Frame (300), comprising the steps of: formatting the Measurement

<p>(301) by a measurement capable station (201) of said plurality of stations (201) a <u>measurement request</u> for at least one <u>measurement report element</u> (500) to be made at a given time; recording by the measurement capable station (201) said at least one <u>measurement report element</u> (500); creating by the measurement capable station (201) a <u>measurement report</u> (400) comprising said at least one <u>measurement report element</u> (500) as one of <u>measurement report elements</u> contained therein (405); respectively <u>time-stamping</u> (404, 504) with <u>an absolute time reference</u> at least one of said at least one recorded <u>measurement report element</u> (500) and said <u>measurement report</u> (400); and transmitting (308) by the measurement capable station said created <u>measurement report</u>.</p>	<p><u>Request Frame</u> (300) to have a <u>Measurement Request Elements field</u> (305) comprising at least one <u>Measurement Request Element</u> (400,440), said at least one <u>Measurement Request Element</u> (400,440) comprising at least one <u>Measurement Request</u> (406,410) for a given type (405) of network measurement specifying at least one of a first (304), second (408) and third (432) prioritized <u>absolute Start Time</u>, respectively, in a corresponding at least one of the <u>Measurement Request Frame</u>, the <u>Measurement Request Elements</u> (440), and the at least one <u>Measurement Request</u> (406).</p>
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The claims of the application 10556,001 encompass the same subject matter except the instant **“A method for creating a measurement report among a plurality of stations in a wireless local area network (WLAN)”** whereas the copending Application 10/556,010 claims are to **“A method for specifying measurement start times in a network Measurement Request Frame ”**. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention to implement the copending Application 10/556,010 **“A method for specifying measurement start times in a network Measurement Request Frame ”** as a **“A method for creating a measurement report among a plurality of stations in a wireless local area network (WLAN)”** because it was notoriously well known to utilize various measurement methods and related reporting mechanisms that can be used e.g. to collect transmission statistics to help optimize performance of the WLAN network based

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on either to request the statistics in a snapshot manner or to set up periodic reporting using a measurement request and / or generating a report on the quality of service in a wireless local area network (WLAN) or other suitable network, wherein a first node, point or terminal provides a measurement request having a reporting rule or condition to a second node, point or terminal for determining when to report the quality of service.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). " ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

Allowable Subject Matter

3. Upon filing a suitable Terminal Disclaimer and proper overcome of the ***Double Patenting rejection*** as discussed above in items 1-2, Claims 1-19 would be allowed.
4. The following is an examiner's statement of reasons for allowance: 1-19.

With respect to claim 1, Daryl Kaiser (Proposed Text for Radio Measurement Requests and Reports", by DARYL KAISER, March 13, 2003 Or Doc: IEEE 801.11-3/207r3) is the closest prior art to the application invention which discloses a measurement report among a plurality of stations (201) in a wireless local area network

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(WLAN), comprising the steps of: receiving by a measurement capable station of the plurality of stations (201) a measurement request for at least one measurement report element (See Kaiser e.g. Page 3, Capability information, Fig. 27, ¶ 7.3.1.11 Action Field: STA (or station) receives, STA instructs the receiving STA to report, Figure 0-3).

However, the prior art of record fails to disclose singly or in combination or render obvious that a measurement request for at least one measurement report element to be made at a given time; recording by the measurement capable station said at least one measurement report element; creating by the measurement capable station a measurement report comprising said at least one measurement report element as one of measurement report elements contained therein; respectively time-stamping (404, 504) with an absolute time reference at least one of said at least one recorded measurement report element and said measurement report; and transmitting by the measurement capable station said created measurement report.

With respect to claim 7, the prior art of record fails to disclose singly or in combination or render obvious that optionally time-stamping with an absolute time reference by the measurement capable station the at least one recorded measurement report element; creating by the measurement capable station an autonomous measurement report comprising the at least one measurement report element; optionally time-stamping with an absolute time reference of the earliest time of a measurement report element contained therein said autonomous measurement report, and transmitting by the measurement capable station said autonomous measurement report, wherein, at least one of the autonomous

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measurement report time-stamp and the at least one measurement report element time-stamp is included in said autonomous measurement report.

With respect to claim 9, the prior art of record fails to disclose singly or in combination or render obvious that comprising the steps of: transmitting (308) by a first station a request for at least one time-stamped measurement report element to be performed at a given time; receiving by a second station both the measurement request and a corresponding measurement report comprising the requested at least one measurement report element and at least one time-stamp comprising an absolute time reference of when the measurement (507) recorded therein was done; comparing by the second station the given time of the measurement request with the at least one time-stamp to determine correctness of the time-stamp.

With respect to claim 13, the prior art of record fails to disclose singly or in combination or render obvious that comprising: a receiver for receiving an incoming signal; a measurement acquisition circuit that measures resources of said incoming signal received therein as at least one measurement report element; a timer that provides an absolute time reference; a control processor, coupled to said measurement acquisition circuit and the timer and beginning at a predetermined absolute time, configured to acquire at least one measurement report element of the incoming signal and optionally associate one of an absolute time reference of the start of the first measurement reported within a measurement report as a time-stamp and an absolute time reference of the start of each measurement report element reported therein with a measurement report element time-stamp.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Khunn-Jush (U.S. Pub. No.: 2005/0054294 A1).

b) Elkin (U.S. 5,966,656 A1)

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kamran Afshar whose telephone number is (571) 272-7796. The examiner can be reached on Monday-Friday.

If attempts to reach the examiner by the telephone are unsuccessful, the examiner's supervisor, **Eng, George** can be reached @ (571) 272-7495. The fax number for the organization where this application or proceeding is assigned is **571-273-8300** for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Kamran Afshar/

Examiner, Art Unit 2617